

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 DEUTSCHE BANK NATIONAL TRUST)
4 COMPANY, as Trustee for the Holders of the)
5 GSAMP Trust 2005-SEA2,)

Case No.: 2:16-cv-00245-GMN-PAL

6 Plaintiff,)

ORDER

7 vs.)

8 THE FOOTHILLS AT SOUTHERN)
9 HIGHLANDS HOMEOWNERS)
ASSOCIATION, *et al.*,)

10 Defendants.)

11)
12 SFR INVESTMENTS POOL 1, LLC,)

13 Counter/Cross-Claimaint,)

14 vs.)

15 DEUTSCHE BANK NATIONAL TRUST)
16 COMPANY, as Trustee for the Holders of the)
GSAMP Trust 2005-SEA2, *et al.*,)

17 Counter/Cross-)
18 Defendants.)

19 On July 27, 2018, the Court granted summary judgment to Plaintiff Deutsche Bank
20 National Trust Company (“Plaintiff”) because, under *Bourne Valley Court Trust v. Wells Fargo*
21 *Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), the Foothills At Southern Highlands Homeowners
22 Association (“HOA”) “foreclosed under a facially unconstitutional notice scheme” and
23 therefore the “foreclosure sale cannot have extinguished” Plaintiff’s deed of trust on the
24 property. (Order 9:4–6, ECF No. 81). The Ninth Circuit has since held, however, that Nevada’s
25 homeowner’s association foreclosure scheme is not facially unconstitutional because the

1 decision in *Bourne Valley* was based on a construction of Nevada law that the Nevada Supreme
2 Court has since made clear was incorrect. *See Bank of Am., N.A. v. Arlington W. Twilight*
3 *Homeowners Ass'n*, 920 F.3d 620, 624 (9th Cir. 2019) (recognizing that Bourne Valley “no
4 longer controls the analysis” in light of *SFR Investments Pool1, LLC v. Bank of New York*
5 *Mellon*, 422 P.3d 1248 (Nev. 2018)). Moreover, for orders from this district that relied on
6 *Bourne Valley Court Trust v. Wells Fargo Bank, N.A.*, 832 F.3d 1154 (9th Cir. 2016), and were
7 thereafter appealed, the Ninth Circuit recently began reversing and remanding such orders in
8 light of *Bank of Am., N.A. v. Arlington W. Twilight Homeowners Ass'n*, 920 F.3d 620, 624 (9th
9 Cir. 2019). *See, e.g., U.S. Bank, N.A. v. SFR Investments Pool 1, LLC*, No. 18-16006, 2019 WL
10 6817304, at *1 (9th Cir. Dec. 13, 2019).

11 Accordingly, to preserve judicial resources,

12 **IT IS HEREBY ORDERED** that the Court’s prior Order, (ECF No. 81), is
13 **VACATED.**

14 **IT IS FURTHER ORDERED** that the parties shall have thirty days from the date of
15 this Order to file renewed dispositive motions.

16 The Clerk of Court shall reopen the case and deliver a copy of this Order to the United
17 States Court of Appeals for the Ninth Circuit, Appeal Number 18-16619.

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19 **DATED** this 18 day of December, 2019.

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22 _____
23 Gloria M. Navarro, District Judge
24 United States District Court
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